

# **EXHIBIT 7**

UNITED STATES DISTRICT COURT  
for the  
EASTERN DISTRICT OF MASSACHUSETTS

**JUDITH THIBEAU,  
And GEORGE THIBEAU,  
Plaintiffs**

VS.

**UNITED STATES OF AMERICA  
and EAST BOSTON NEIGHBORHOOD  
HEALTH CENTER CORPORATION,  
Defendants**

**CIVIL ACTION  
NO. 04-10643 LTS**

**AFFIDAVIT OF TORY A. WEIGAND, ESQUIRE**

I, Tory A. Weigand, do depose and swear as follows:

1. I am counsel for the defendant, East Boston Neighborhood Health Center Corporation (“EBNHC”) and a partner at Morrison Mahoney LLP.

2. The above-entitled action is a consolidated action in which the plaintiffs have asserted various professional negligence claims against the EBNHC with regard to the provision of eye care to the plaintiff, Mrs. Judith Thibeau, on or about September 26, 2002. The plaintiff has also alleged that the handrail on the stairway was allegedly defective contributing to Mrs. Thibeau's fall.

3. The parties engaged in certain discovery primarily directed at the professional negligence claim and just recently exchanged expert reports. The plaintiffs just recently provided an expert report which for the first time set forth the basis for the alleged defect in the premises claim apart from the professional negligence claims.

4. As set forth in the deposition excerpts and the affidavit of James Taylor, M.D., the EBNHC is a non-profit charitable organization which provides healthcare services to the public primarily in the Chelsea, Revere, East Boston and Winthrop area since 1970.

5. Following the review of plaintiffs' expert report and the review of the defendant's own retained experts, which reports which were just recently provided to the plaintiffs, undersigned counsel contacted plaintiff's counsel by telephone on Friday, November 11, 2005, to advise him of the applicability of G.L. c. 231 §85K to the allegedly faulty handrail design claim, but which cap does not otherwise apply to the professional negligence claims. Undersigned counsel for EBNHC informed plaintiffs' counsel that the EBNHC would be filing a motion to amend its answer to add the statutory cap as an affirmative defense.

6. In my discussions with plaintiffs' counsel, I offered and agreed to provide plaintiffs with EBNHC's articles of incorporation and mission statement which I have since provided. I also offered to provide any other relevant documents in EBNHC's possession related to its charitable status that plaintiffs might wish to review. I likewise offered to allow plaintiffs to submit additional document requests and interrogatories as to the charitable status of EBNHC, with EBNHC providing responses within seven (7) days of the receipt of the request. I also offered to allow plaintiffs to take any additional depositions of EBNHC personnel desired by plaintiffs as to the charitable status at issue and believe that any such discovery can be completed in a matter of days.

7. Plaintiff's counsel informed the undersigned that he would review the motion upon receipt but that he would be opposing the requested amendment.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 14<sup>TH</sup> DAY OF NOVEMBER, 2005.

/s/ Tory A. Weigand

---

Tory A. Weigand, BBO #548553  
MORRISON MAHONEY LLP  
250 Summer Street  
Boston, MA 02210  
Direct Tel: 617-737-8827  
Direct Fax: 617-342-4947

I hereby certify that on November 14, 2005, a true copy of the above document was served upon each counsel of record electronically through filing with the ECF system.

/s/ Tory A. Weigand

---

Tory A. Weigand

## **EXHIBIT 8**

PAGE 1 SHEET 1

1

1 Volume I  
2 Pages 1-98  
3 UNITED STATES DISTRICT COURT  
4 FOR THE EASTERN DISTRICT OF MASSACHUSETTS  
5 C.A. 04-10643 MLW

6 JUDITH THIBEAU  
7 and GEORGE THIBEAU,  
8 Plaintiff  
9 vs

10 UNITED STATES OF AMERICA  
11 and EAST BOSTON NEIGHBORHOOD  
12 HEALTH CENTER CORPORATION,  
13 Defendant

14 DEPOSITION of JAMES O. TAYLOR, M.D.,  
15 taken on behalf of the Plaintiff, pursuant  
16 to the Federal Rules of Civil Procedure,  
17 before Norma J. Black, CSR #106593, and  
18 Notary Public in and for the Commonwealth  
19 of Massachusetts, at the Law Offices of  
20 Frederick & Associates, 1330 Beacon Street,  
21 Brookline, Massachusetts 02446-3202,  
22 commencing at 10:30 a.m., on Monday, March  
23 21, 2005.

24 ALL-WRITE TRANSCRIPTION & REPORTING SERVICES  
955 WASHINGTON STREET  
NORWOOD  
MASSACHUSETTS 02062  
(781)769-3172

PAGE 2

2

# 1 APPEARANCES

2  
3  
4 JAMES L. FREDERICK, ESQUIRE  
5 Frederick & Associates  
6 1330 Beacon Street  
7 Brookline, Massachusetts 02446-3202  
8 Appearing for the Plaintiffs

9  
10 CHRISTOPHER ALBERTO, ESQUIRE  
11 Assistant U.S. Attorney  
12 United States Attorney for the  
13 District of Massachusetts  
14 U.S. Courthouse, Suite 9200  
15 1 Courthouse Way  
16 Boston, Massachusetts 02210  
17 representing the Deponent,  
18 James O. Taylor, M.D.

19  
20 CHARLES M. URSO, ESQUIRE  
21 Morrison Mahoney LLP  
22 250 Summer Street  
23 Boston, Massachusetts 02210  
24 Appearing for the Defendant,  
East Boston Neighborhood Health  
Center Corporation

PAGE 3

3

# 1 INDEX

2  
3 WITNESS -- JAMES O. TAYLOR, M.D. PAGE  
4  
5 Direct Examination by Mr. Frederick 4  
6 Cross Examination by Mr. Alberto 85

# 16 EXHIBITS

18 NUMBER	DESCRIPTION	PAGE
19		
20 1	Interrogatories	35
21 2	Notes	56
22 3	Progress Note	56
23 4	Accident Report	59
24 5	Notice of Deposition	64

PAGE 4

4

# 1 STIPULATIONS

2  
3  
4  
5 Counsel have stipulated that the  
6 reading, signing and filing of the  
7 deposition may be waived.

8 Counsel have further stipulated that  
9 all objections, except those as to form,  
10 and all motions to strike may be reserved  
11 until the time of trial.

12 JAMES O. TAYLOR, M.D.,  
13 being first duly sworn, was examined and  
14 testified as follows:

# 16 DIRECT EXAMINATION

17 Q (BY MR. JAMES L. FREDERICK) Dr. Taylor, my  
18 name is Jim Frederick and I represent  
19 Judith ThibEAU and George ThibEAU in this  
20 case. I will be asking you some questions  
21 today. If you do not understand any of my  
22 questions, please let me know and I will  
23 try to rephrase the question.

24 Please give oral answers to

PAGE 5 SHEET 2

5

1 every question and not a nod of the head or  
2 a gesture.

3 A All right.

4 Q Also, please let me finish my question  
5 before you start to give your answer so we  
6 do not confuse the court reporter.

7 If you need to take a break at  
8 any time, let me know and we can go off the  
9 record, as long as you have finished  
10 answering the pending question.

11 A All right.

12 Q Please state your full name.

13 A James O. Taylor, T-a-y-l-o-r.

14 Q What does the O stand for?

15 A Oliver.

16 Q What is your date of birth?

17 A October 11, 1937.

18 Q And what is your Social Security number?

19 A 566-48-7858.

20 Q Are you employed?

21 A Yes, I am.

22 Q Where are you employed?

23 A East Boston Neighborhood Health Center.

24 Q How long have you worked there?

PAGE 6

6

1 A For thirty-five years.

2 Q What is your position at East Boston  
3 Neighborhood Health Center?

4 A Chief Medical Officer.

5 Q How long have you been the Chief Medical  
6 Officer there?

7 A I guess my title was Medical Director  
8 starting in about 1971, and maybe ten years  
9 ago it was changed.

10 Q Briefly, please tell me your educational  
11 background?

12 A I did my undergraduate training at  
13 Occidental College in Los Angeles. I went  
14 to UCLA Medical School and graduated in  
15 1963. I then came to the Boston City  
16 Hospital where I was an intern and first  
17 year resident in 1963 through 1965.

18 I joined the United States  
19 Public Health Service and was stationed in  
20 Duki, East Pakistan, which is now  
21 Bangladesh, for three years and returned to  
22 Boston City Hospital and did a senior  
23 residency and fellowship in infectious  
24 diseases in 1968 and 1969.

PAGE 7

7

1 In 1978, while still a research  
2 fellow, I went to East Boston to begin  
3 hypertension research and was recruited to  
4 help start a health center.

5 Q So did you, in fact, help start the East  
6 Boston Neighborhood Health Center?

7 A Yes.

8 Q You were there at the beginning then?

9 A Yes.

10 Q Do you have a specialty, Doctor?

11 A Internal medicine.

12 Q Are you board certified?

13 A I'm board eligible, not board certified.

14 Q With regards to being the Chief Medical  
15 Officer, can you tell me what the duties of  
16 that job are?

17 A I am really responsible for the medical  
18 care provided. I recruit and supervise the  
19 medical staff. We now have over a 140  
20 different physicians employed by the health  
21 center. The total health center staff is  
22 about 750 people.

23 Q The total staff?

24 A Yes. We see about 230,000 patient visits a

PAGE 8

8

1 year. So I supervise the departmental  
2 medical directors; recruit physicians,  
3 responsible for quality assurance,  
4 performance improvement, and meet all of  
5 the legal and regulatory requirements of  
6 providing healthcare as a neighborhood  
7 health center and group medical practice.

8 Q Where is the East Boston Neighborhood  
9 Health Center located?

10 A 18 Gove Street, it's above the exit to the  
11 Callahan Tunnel on the East Boston side.

12 Q Is that the main office at 18 Gove Street?

13 A Yes.

14 Q Are there other offices, say, within East  
15 Boston?

16 A There are actually four buildings on the  
17 four corners of Gove and Paris Street. We  
18 also have three assisted living  
19 facilities and two adult day healthcare  
20 centers which are part of a community based  
21 long-term care program for frail elderly.

22 Q Is that it?

23 A Yes.

24 Q So an assisted living facility of three

PAGE 9 SHEET 3

9

1 buildings and two buildings for the  
2 adult day healthcare?  
3 A One building actually has both adult day  
4 healthcare and assisted living in the same  
5 building. One -- actually two buildings  
6 have a combination of housing and  
7 healthcare. One is just housing.  
8 Q Where are those assisted living facilities  
9 and the adult day healthcare located?  
10 A One is immediately next door to the main  
11 building on Gove Street; that's the Luman  
12 School. Another one is in Maverick Square;  
13 that's the Lewis Mall. That also has about  
14 forty units of assisted living.  
15 There is another assisted  
16 living unit without an adult day health  
17 center at the Shevritz School, and then  
18 there is an adult day health center with  
19 single-room occupancy units for cognitively  
20 impaired elders in Winthrop called Winthrop  
21 Place.  
22 Q Who pays you your salary?  
23 A The East Boston Neighborhood Health Center  
24 is a 501C3 independent corporation. We

PAGE 11

11

1 maintained status as a 501C3 corporation.  
2 I think at that time that's when the  
3 paycheck switched.  
4 Q Does the East Boston Neighborhood Health  
5 Center still have a connection with Boston  
6 City Hospital?  
7 A Yes, we are still on the license of its  
8 successor organization, which is Boston  
9 Medical Center, formed by the merger of  
10 Boston City Hospital.  
11 Q When you say on the license of, what does  
12 that mean?  
13 A That means in terms of external regulators  
14 and certain payers, we are considered to be  
15 a clinic of the Boston Medical Center. So  
16 JCAHO, the Joint Commission on  
17 Accreditation of Healthcare Organizations,  
18 views us as if we were part of Boston  
19 Medical Center.  
20 There are three other health  
21 centers that have that status -- actually  
22 four. But for purposes of payroll and  
23 personnel and legal entity, we are  
24 separate.

PAGE 10

10

1 have a Board of Directors made up of  
2 community residents and users of the health  
3 center, predominantly.  
4 Q So your paychecks come from East Boston  
5 Neighborhood Health Center?  
6 A Yes.  
7 Q Is it the East Boston Neighborhood Health  
8 Center Corporation?  
9 A I think it's Inc.  
10 Q How long have you been paid like that?  
11 A Perhaps since 1978. It used to be through  
12 an organization called Trustees of Health &  
13 Hospitals, Incorporated, and I actually got  
14 my paycheck through the Trustees of Health  
15 & Hospitals, Incorporated.  
16 Then in 1978 the state  
17 basically decided that a more appropriate  
18 arrangement would be that the health center  
19 should either become part of what was then  
20 Boston City Hospital or an independent  
21 free-standing health center.  
22 The health center chose to  
23 become, from a licensure point of view,  
24 part of Boston City Hospital and also

PAGE 12

12

1 Q You say the accreditation, people come to  
2 visit you as a clinic of the Boston Medical  
3 Center?  
4 A That's correct.  
5 Q The accreditation, what is that?  
6 A JCAHO, Joint Commission on Accreditation of  
7 Healthcare Organizations.  
8 Q Where are they from, if you know?  
9 A Chicago, I think.  
10 Q How often do they come?  
11 A Every three years on a regular basis. They  
12 may come at other times unannounced.  
13 Q When was the last such visit?  
14 A Just about a year ago.  
15 Q Does this commission visit all of the  
16 facilities of the East Boston Neighborhood  
17 Health Center?  
18 A Yes.  
19 Q And what do they do when they come here to  
20 visit?  
21 MR. URSO: Objection. That is  
22 peer review.  
23 (Discussion off the record)  
24 MR. FREDERICK: Defense counsel



PAGE 13 SHEET 4

13

1 and I have had a discussion about peer  
2 review as regards the records of JCAHO, the  
3 Joint Commission on Accreditation of  
4 Healthcare Organizations, and there may be  
5 a statutory privilege against my inquiring  
6 about that information.

7 What I would like to do is  
8 suspend such portion of the deposition as  
9 regards any information that might be asked  
10 for gleaned from any inspections of JCAHO,  
11 until such time as I have had a chance to  
12 review the law on that. If I feel it's  
13 necessary to bring a motion and seek a  
14 court order to get those records and to  
15 bring the Doctor back in, we can reconvene  
16 on that subject at that time.

17 MR. URSO: All right

18 MR. ALBERTO: That's fine.

19 Q Doctor, one of the addresses of the  
20 buildings which the health center operates  
21 out of is on Paris Street?

22 A 79 Paris Street, it's the George Robert  
23 White Fund Building or health unit  
24 building, which was the site of the

PAGE 14

14

1 original health center before the 18 Gove  
2 Street site was built.

3 It's a building that was  
4 constructed I think in 1926, according to  
5 the plaque, and is still owned by the  
6 George Robert White Fund Trust.

7 Q Is there another building on Paris Street  
8 that the center operates out of?

9 A Not with an address on Paris Street, no.

10 Q How many buildings on Gove Street does it  
11 operate under?

12 A The Lunan School facility is next door to  
13 the 18 Gove Street main facility. They  
14 both have addresses on Gove Street.

15 Q Going back to the 79 Paris Street building,  
16 was the neighborhood health center formed  
17 at that original office?

18 A Yes, that building functioned as a public  
19 health clinic operated by the city of  
20 Boston since originally owned in 1926.

21 Q 1926?

22 A 1926, yes.

23 Q And you said it's owned by the George  
24 Robert White Fund Trust?

PAGE 15

15

1 A Yes.

2 Q Do you have information or knowledge as to  
3 what that is?

4 A That actually is a trust that was set up by  
5 this philanthropist which consists of the  
6 Mayor of the city of Boston, corporation  
7 counsel of the city of Boston, president of  
8 the city counsel, president of the Bar  
9 Association, and one other distinguished  
10 person whom I can't remember.

11 Basically, there's an office in  
12 city hall that there were originally thirty  
13 such health units started around the city.  
14 The White Building at Mass. General is also  
15 I believe under that fund.

16 The fund has resources which  
17 they actually reinvest into their  
18 properties from time to time. We basically  
19 lease it from the fund for a dollar a year.

20 Q You said a moment ago the fund has  
21 resources which it reinvests in buildings  
22 from time to time; is that right?

23 A Yes, on application or into other projects  
24 for the betterment of the city as specified

PAGE 16

16

1 in the will.

2 Q And has the fund from time to time devoted  
3 some resources to the building at 79 Paris  
4 Street?

5 A Yes, it has.

6 Q And what sorts of things has the fund  
7 applied its resources to at 79 Paris  
8 Street?

9 A Windows, roofing -- it's never touched the  
10 stairway.

11 Q What other sorts of things besides windows  
12 and roofing?

13 A There's an ejector pit in the basement that  
14 has to do with water and sewerage. It's  
15 basically facilities, maybe possibly the  
16 heating. I'm not sure. There is no  
17 air-conditioning.

18 Q You said that money is applied or used upon  
19 application?

20 A Yes.

21 Q Is it upon application of the East Boston  
22 Neighborhood Health Center?

23 A Yes.

24 Q When the health center sees a need to fix

PAGE 17 SHEET 5

17

1 part of the facility, it applies to the  
 2 fund?  
 3 A That would be one way to do it. Another  
 4 way of doing it is just to do it out of  
 5 operating funds, if that were not  
 6 available.  
 7 Q So it's either or?  
 8 A Yes.  
 9 Q In other words, if the health center needs  
 10 some money to fix a certain part of its  
 11 facility at 79 Paris Street, it either  
 12 applies to the fund or goes to its own  
 13 budget?  
 14 A Usually goes to its own budget. It would  
 15 go to the fund for a larger project.  
 16 Q In your capacity as Chief Medical Officer,  
 17 are you familiar with the budget for the  
 18 East Boston Neighborhood Health Center?  
 19 A In general terms, yes.  
 20 Q How are you familiar with the budget? Do  
 21 you have any input in the budget?  
 22 A Yes, I am basically the Chief Executive  
 23 Officer and I sort of coexist in something  
 24 known as office of the president. We work

PAGE 19

19

1 proposal.  
 2 Q What are some of the capital improvements  
 3 that the East Boston Neighborhood Health  
 4 Center has made part of its budget for 79  
 5 Paris Street, say in the last ten years?  
 6 A I'm not sure. Within the past twenty  
 7 years, we have moved walls. I mean, we  
 8 have redesigned exam rooms. Over the  
 9 history of the building, different rooms  
 10 have been used for a wide variety of  
 11 different functions: some office space,  
 12 some patient care space, that sort of  
 13 thing.  
 14 Q From time to time say in your tenure there?  
 15 A At one point the roof needed serious work  
 16 in terms of preventing water leakage, that  
 17 sort of thing.  
 18 Q I take it that was done?  
 19 A Yes.  
 20 Q And that was an item in the budget which  
 21 was approved?  
 22 A Yes.  
 23 Q Then there have been some physical changes  
 24 to offices inside of the building?

PAGE 18

18

1 Jointly with the Chief Financial Officer  
 2 and other leaders within the health center  
 3 in developing the budget and present that  
 4 budget to the Board of Directors for their  
 5 approval on an annual basis.  
 6 So I have input into it. My  
 7 background is not a financial background.  
 8 Q But on a yearly basis you help put together  
 9 a proposed budget which is proposed to the  
 10 Board of Directors?  
 11 A That's correct.  
 12 Q And as part of that budget, there are items  
 13 for capital improvements?  
 14 A Yes.  
 15 Q And in this budget you present to the Board  
 16 of Directors, is that separate from any  
 17 applications you make to the fund --  
 18 A Yes.  
 19 Q -- for monies?  
 20 A Yes. I would say that we have gone to the  
 21 fund maybe three or four times in the  
 22 thirty years I have been there for very  
 23 specific projects. That's unusual. It's  
 24 not always accepted when we make a

PAGE 20

20

1 A Right.  
 2 Q And walls have been put up and taken down?  
 3 A Some, yes. It's a pretty substantial  
 4 building. It's not easy to move walls in  
 5 the building. It's sort of subpartitions,  
 6 that the basic walls in the building are  
 7 not moveable.  
 8 Q When was the last major renovation in the  
 9 building?  
 10 A I would guess fifteen years. But honestly,  
 11 my chronologics clock is not reliable going  
 12 backward.  
 13 Q Do you have any idea when the elevator was  
 14 installed in the building?  
 15 A I think it was installed initially with the  
 16 building. It's an Otis elevator.  
 17 At some point maybe twenty  
 18 years ago the cab was enclosed.  
 19 Originally, it was sort of like many of the  
 20 older building elevators; the cab was sort  
 21 of one of those folding sliding metal doors  
 22 and you could sort of see around you as you  
 23 went up and down. Again, I would guess  
 24 twenty years ago or so it was enclosed with

PAGE 21 SHEET 6

21

1 electric doors.

2 Q When that work was done, were you the Chief

3 Medical Officer or the Medical Director?

4 A One of the two.

5 Q You are now Chief Medical Officer and

6 before you were Medical Director?

7 A It really didn't change.

8 Q Say the elevator work had been done twenty

9 years ago, was that a budgeted item, to

10 your best memory?

11 A I suspect it was done at the same time that

12 a heavy concrete access ramp was put up

13 outside of the building. So my guess is

14 that was a paid for renovation. That is my

15 guess, but I'm just guessing. It could be

16 twenty, could be twenty-five. Time blurs

17 going backwards.

18 Q The building at 79 Paris Street, what is

19 housed there today?

20 A The first floor has what we call enrollment

21 offices there. It's basically a staff of

22 probably twelve or fifteen bilingual

23 enrollment representatives for patients who

24 do not have insurance. And they basically

PAGE 22

22

1 sit with them to help them fill out

2 applications and apply for things that

3 might give them healthcare coverage, such

4 as Mass. Health and the Free Healthcare

5 Pool and Healthy Start and the Chip Program

6 for children. So that is the front half of

7 that building.

8 The back half is a program

9 known as Project CHINE, which is a

10 Multi-Disciplinary Program for patients

11 with HIV and AIDS. That's the first

12 floor.

13 The second floor is half or

14 maybe half a dental clinic and the other

15 half is the vision center or eye clinic.

16 The third floor houses the

17 medical staff office that handles all of

18 the credentialing and has the Grants

19 Administrator. There's a small office for

20 a program called the Catch Program, which

21 is a multi-disciplinary program for

22 disabled infants and children. It's a home

23 base for a home care team of physicians and

24 practitioners and a social service person.

PAGE 23

23

1 And in the basement there's

2 some storage. I think there may be some

3 facilities, workshop. I think that's it.

4 Q So it's three floors above ground?

5 A Three above ground, yes.

6 Q And the third floor, do any patients go up

7 to the third floor?

8 A Not as part of routine medical care, no.

9 Q So in that building, the routine medical

10 care is only given on the second floor?

11 A Second and first, yes.

12 Q And with the dental clinic on the second

13 floor, how do you enter the dental clinic?

14 A By the stairs or elevator -- share a common

15 door on the second floor after the landing.

16 Q Was this the setup in 2002?

17 A Yes.

18 Q How long has the eye clinic been on the

19 second floor there?

20 A Guessing again, I would say twenty years or

21 more. I'm not sure.

22 Q Is the money to operate the eye clinic

23 separately budgeted?

24 A No.

PAGE 24

24

1 Q How many staff work at the eye clinic?

2 A I may be off, but I think there are

3 probably three or four sort of secretarial

4 level people. There are four

5 optometrists. At any point in time there

6 may be five students from the New England

7 College of Optometry. And then we have

8 ophthalmologists who come in usually on a

9 once a week basis for medical and surgical

10 eye disease.

11 Q The optometrists are not MDs; is that

12 correct?

13 A That's correct.

14 Q But the ophthalmologists are?

15 A The ophthalmologists are MDs. The

16 optometrists are DOs, doctor of optometry.

17 Q Such as people who graduated from the New

18 England College of Optometry?

19 A Yes.

20 Q How long have you been using students from

21 the New England College of Optometry?

22 A I would say since the late seventies, might

23 be as late as 1980, between 1978 and 1980.

24 We moved into the 10 Gove

PAGE 29 SHEET 8

29

1 And there's a retina  
2 specialist, Dr. Lu. I can't remember his  
3 first name.  
4 Q He is a retina specialist?  
5 A Yes. He maybe comes in once a month but  
6 not as often as Dr. Abelson.  
7 Q Any other ophthalmologists that come in?  
8 A No.  
9 Q Were these same ophthalmologists coming in  
10 -- do you want to change something?  
11 A Yes. Actually, I think there certainly  
12 were not at the time we are talking about,  
13 but I think there is now another  
14 ophthalmologist who comes in from Boston  
15 Medical Center. Her name is Susan Rowe, I  
16 believe.  
17 MR. ALBERTO: Dr. Taylor is not  
18 certain that this is accurate information.  
19 He is trying to the best of his ability.  
20 Q I understand you're giving your best memory  
21 of what you know.  
22 A In the old days, I knew all the employees'  
23 names. But we now have 750 employees, and  
24 my memory is not as good.

PAGE 30

30

1 Q So Dr. Abelson and Dr. Lu?  
2 A Yes.  
3 Q Were they the only ophthalmologists who  
4 came in say in September of 2002?  
5 A Yes.  
6 Q For how long have they been doing this  
7 would you say?  
8 A Quite a long time, well over ten years,  
9 maybe fifteen years. It might be all the  
10 way back to the beginning for Dr. Abelson.  
11 That would be my guess. But we have to go  
12 back to the personnel files to check.  
13 Q In 2002, Dr. Abelson was coming in once a  
14 week?  
15 A Yes.  
16 Q And was there one particular day he would  
17 come in?  
18 A I believe on Fridays, but don't hold me to  
19 that.  
20 Q Would he usually spend the entire day there  
21 when he came?  
22 A I believe a half day.  
23 When you depose Dr.  
24 Pietrantonio, he can give you much more

PAGE 31

31

1 accurate testimony about the eye clinic.  
2 Q Dr. Pietrantonio, what is his position?  
3 A He is the Chief Optometrist. He is the  
4 director of that program. He's been there  
5 from the beginning as well.  
6 Q Director of the eye clinic?  
7 A Yes.  
8 Q Was Dr. Pietrantonio present at the eye  
9 clinic on September 26, 2002?  
10 MR. ALBERTO: September 26,  
11 2002, was a Thursday.  
12 A All right, so it might have been his normal  
13 day. I don't know.  
14 Q What about Dr. Abelson, when would he come  
15 in?  
16 A He would examine patients with potential  
17 eye disease, surgical eye disease. He  
18 would do preoperative examinations for  
19 those that need cataract surgery and  
20 follow-up for patients who had surgery. He  
21 works closely with Dr. Pietrantonio. So  
22 they jointly manage these patients.  
23 Q He is an eye surgeon?  
24 A Yes.

PAGE 32

32

1 Q Where does he operate?  
2 A Mass. Eye & Ear and I'm not sure that is  
3 his only site of operation for doing  
4 surgery. He did operate at Boston Medical  
5 Center as well. He actually has offices in  
6 the North Shore. So there may be other  
7 places. I don't know.  
8 Q He has offices in Andover; is that right?  
9 A Yes.  
10 Q The eye clinic, is it referred to at the  
11 health center as the eye clinic?  
12 A Probably more often as the vision center.  
13 I think it's the vision center. But it's  
14 the standard nomenclature. It does not  
15 appear on any documents.  
16 Q Is the eye clinic or the vision center a  
17 separate legal entity as far as you know?  
18 A No. It's a department.  
19 Q A department of the East Boston  
20 Neighborhood Health Center?  
21 A That's right, a department.  
22 Q And the eye clinic, does the eye clinic  
23 have a separate budget or sub-budget within  
24 the budget for the East Boston Neighborhood

PAGE 33 SHEET 9

33

1 Health Center?

2 A Yes and no. I mean, basically there's a

3 personnel budget for the eye clinic; but I

4 think in terms of facilities budget, it's

5 pretty much merged.

6 Q When you say personnel budget, does that

7 mean within the East Boston Neighborhood

8 Health Center there's a certain amount set

9 aside for personnel who work at the eye

10 clinic?

11 A Yes. There would be a roster with all of

12 their salaries and so forth.

13 Q As far as the money that is earmarked for

14 the people who work at the eye clinic, does

15 that money come from any particular source

16 or come from the overall budget of the East

17 Boston Neighborhood Health Center?

18 A It comes from the overall budget of the

19 East Boston Neighborhood Health Center.

20 Q The East Boston Neighborhood Health Center

21 receives money to operate its budget from

22 year to year from what sources?

23 A From many different sources. We are a

24 federally qualified community health

PAGE 34

34

1 center; what is called a 330 health center,

2 which applies to public law. That accounts

3 for maybe -- that's about

4 two-and-a-half-million dollars a year.

5 MR. ALBERTO: I think it's in

6 the answers to interrogatories as to the

7 funding.

8 A We also basically do get some money

9 directly from the city of Boston. We get

10 money from public and private payers,

11 Medicaid, Medicare, Blue Cross, other

12 insurers, various HMOs, Harvard, Tufts. We

13 get money through the Boston Medical

14 Center, from the state in what is called

15 the Free Healthcare Pool. So there are

16 many different sources of funding.

17 Q Do you know for the last fiscal year what

18 the total amount of money that the

19 healthcare center had to spend on its

20 budget was, in rough terms?

21 A I think it was about sixty-two-million

22 dollars, I believe.

23 Q The largest chunk of the sixty-two-million

24 dollars, where does that come from?

PAGE 35

35

1 A Public payers, Medicare and Medicaid and

2 the Free Healthcare Pool.

3 Q Roughly, how much would that be?

4 A I would say probably 35 percent from

5 Medicaid. I would guess a similar amount

6 from the Free Healthcare Pool. Medicare

7 would be smaller than that, and the rest

8 from private payers.

9 (Exhibit Number 1 marked for

10 identification)

11 Q I show you what has been marked as Exhibit

12 Number 1 to your deposition. Please take a

13 minute and look through that.

14 A All right.

15 Q Would you agree this document is entitled

16 United States of America Interrogatories In

17 Response To Request For Production Of

18 Documents?

19 A Yes.

20 Q Have you seen this document before?

21 A Yes.

22 Q And did you, in fact, sign this document?

23 A Yes, I did.

24 Q And on page 5, is that a copy of your

PAGE 36

36

1 signature?

2 A Yes, it is.

3 Q Before you signed it, did you read the

4 answers that were in the answers to

5 interrogatories?

6 A Yes, I did.

7 Q At the time you signed it, were those

8 answers true and accurate?

9 A I believe they were, yes.

10 Q Doctor, have you ever been deposed before?

11 A Yes.

12 Q How many times?

13 A Two.

14 Q When were those times, approximately?

15 A Five years ago, maybe three years ago.

16 Q On two separate occasions?

17 A Yes.

18 Q And what types of cases were those, if you

19 know?

20 A I'm trying to remember. I believe one was

21 when we were a third party in what I think

22 was a malpractice suit against another

23 provider. And I think the other was around

24 a personnel issue with disciplinary action

PAGE 41 SHEET 11

41

- 1 Q Did he have that position in 2002?
- 2 A Yes.
- 3 Q How long has he had that position as far as
- 4 you know?
- 5 A A very long time, probably twenty years,
- 6 maybe more.
- 7 Q Who is his boss, if you know?
- 8 A He would report more directly to John
- 9 Cradock, who is the Chief Executive
- 10 Officer, C-r-a-d-o-c-k.
- 11 Q John Cradock is the Chief Executive
- 12 Officer?
- 13 A Yes. So he would be much more involved in
- 14 issues of facilities and budgets and things
- 15 like that. Where mine would be more in the
- 16 area of medical care and standards and
- 17 things like that.
- 18 Q Do you report to Mr. Cradock?
- 19 A It depends which organizational chart you
- 20 look at. We both occupy the office of the
- 21 president. It's sort of a shared
- 22 position.
- 23 But I think if you were to look
- 24 on the federal organizational chart under

PAGE 43

43

- 1 to that.
- 2 Q Is that de facto organizational chart in
- 3 writing, or is that just something
- 4 everybody knows about?
- 5 A It just may be something everybody knows
- 6 about. It's the standard way we've
- 7 operated over the years we have been
- 8 partners.
- 9 Q Starting with the de facto organizational
- 10 chart, tell me how that reads from the top
- 11 down?
- 12 A There is the office of the president which
- 13 has the CEO and CMD. We report to the
- 14 Board of Directors, and then there's a
- 15 series of directors who report to us and
- 16 there's a Chief Operating Officer.
- 17 There is a Chief Informational
- 18 Officer who runs the computer side of
- 19 things. There's a Chief Financial Officer
- 20 and Director of Human Resources. There's a
- 21 Facilities Director.
- 22 And then sort of under me
- 23 there's a series of medical directors for
- 24 each of the departmental areas. So there's

PAGE 42

42

- 1 the 338 application, I would report to him,
- 2 yes.
- 3 Under the structure of 338,
- 4 there is a single CEO and that is a federal
- 5 requirement.
- 6 Q You referred to an organizational chart
- 7 under 338. What is 338?
- 8 A 338 is the federal law that provides for
- 9 federally funded community health centers.
- 10 Q There's an organizational chart submitted
- 11 with the federal government?
- 12 A Yes.
- 13 Q And is that submitted every year, or when
- 14 is that submitted?
- 15 A It is submitted whenever the granting cycle
- 16 is. So it's either every three or five
- 17 years, depending if it's a three or five
- 18 year grant. And then there are annual
- 19 reports. I don't know if they update the
- 20 chart on an annual basis or not.
- 21 Q Is there another organizational chart
- 22 you're aware of?
- 23 A I think there's a de facto organizational
- 24 chart that would -- I don't know the answer

PAGE 44

44

- 1 a Medical Director for internal medicine,
- 2 pediatrics, obstetrics and gynecology,
- 3 mental health. There are administrative
- 4 directors. There are probably maybe
- 5 twenty-something departments and each of
- 6 which has an administrative director.
- 7 Q Is the vision center eye clinic at that
- 8 level?
- 9 A Our clinic falls under the specialties
- 10 department. There is an Administrative
- 11 Director for Specialties, Donna Crown,
- 12 C-r-o-w-n, who reports to me.
- 13 (Discussion off the record)
- 14 MR. URSO: I want to make an
- 15 objection on behalf of the East Boston
- 16 Neighborhood Health Center, I was not
- 17 advised that the depositions were switched
- 18 around and that Dr. Taylor would be
- 19 appearing today.
- 20 Therefore, we would like to
- 21 include a running objection as to anything
- 22 Dr. Taylor testifies to regarding the
- 23 premises of the building, 79 Paris Street.
- 24 The objection will not apply to anything



PAGE 45 SHEET 12

45

- 1 regarding the medical treatment received by  
 2 the plaintiff.  
 3 Q Doctor, we were talking about the  
 4 organizational chart?  
 5 A Yes.  
 6 Q And you were talking about the "de facto"  
 7 organizational chart, and then there was a  
 8 written organizational chart?  
 9 A I think both are written. One I think is  
 10 the one that gets submitted to the federal  
 11 government to comply with.  
 12 MR. ALBERTO: We will get a  
 13 copy of that?  
 14 A Yes.  
 15 Q Could you supply a copy of both charts?  
 16 A Yes.  
 17 MR. ALBERTO: Is there a de  
 18 facto chart?  
 19 A I will try to find one.  
 20 Q The official one is in the block over you?  
 21 A Yes.  
 22 Q Would you say that is the only difference?  
 23 A Yes.  
 24 Q And that person is who again?

PAGE 46

46

- 1 A John Cradock.  
 2 Q And his position?  
 3 A Chief Executive Officer.  
 4 Q Did they have that position in 2002?  
 5 A Yes.  
 6 Q How long has he held that position?  
 7 A I think twenty-five years, a little over  
 8 twenty-five years, maybe twenty-six years.  
 9 Q You were also testifying or you testified  
 10 that the eye clinic in the organizational  
 11 chart was under specialty care?  
 12 A Specialties, yes. We have a variety of  
 13 specialty services. We provide on-site  
 14 eye, dental, and then other specialists who  
 15 come in, oncology, rheumatology, surgery.  
 16 Q And you gave me the name of Donna Crown?  
 17 A She is the Administrative Director of the  
 18 Specialties Department of which the eye  
 19 clinic is a subdivision.  
 20 Q And under the eye clinic in the  
 21 organizational chart, who is named?  
 22 A John Pietrantonio would be the head of the  
 23 eye clinic.  
 24 Q And who would be under him, or is there any

PAGE 47

47

- 1 person on that chart?  
 2 A Then the optometrists. He actually  
 3 coordinates all the clinical care in the  
 4 department and he is the one that basically  
 5 deals primarily with the visiting  
 6 specialists.  
 7 Q Where is your office?  
 8 A My office is at 59 Meridian Street, which  
 9 actually opens to Paris Street immediately  
 10 across.  
 11 Q So it's in East Boston?  
 12 A Yes.  
 13 Q How long have you been at that location,  
 14 your own office?  
 15 A Fifteen years, I'm guessing. My office has  
 16 been in every building actually, on the  
 17 four corners, over the years.  
 18 Q Did your office used to be at 79 Paris  
 19 Street?  
 20 A Yes, at one time.  
 21 Q How long ago was that?  
 22 A It was for the first seven years.  
 23 79 Paris Street was our only  
 24 facility. So my office was in the

PAGE 48

48

- 1 basement, went to the third floor, and then  
 2 moved across the street to today's space.  
 3 It's moved around a lot over the years.  
 4 Q To your knowledge, does the eye clinic have  
 5 any written policies and procedures which  
 6 it operates under?  
 7 A Yes.  
 8 Q And --  
 9 A The specialties department have operating  
 10 policies and procedures, yes.  
 11 Q The specialties department in general has  
 12 policies and procedures, or do each one of  
 13 the specialties have policies and  
 14 procedures?  
 15 A I believe that the policies and procedures  
 16 are written for the specialties department  
 17 specifically.  
 18 Q Does the eye clinic have written policies  
 19 and procedures?  
 20 A Distinct from those? I'm not sure. I  
 21 don't know whether they are distinctly  
 22 separate from them or not. John could tell  
 23 you that.  
 24 Q The policies and procedures you have in

PAGE 85 SHEET 22

85

## 1 CROSS EXAMINATION

2 Q (BY MR. CHRISTOPHER ALBERTO) Doctor,  
3 you said you started the clinic; you were  
4 one of the creators or founders?

5 A I was actually working in the community on  
6 a hypertension project and was approached  
7 by the Board of Directors and asked if I  
8 would help start this.

9 So for the first year, I worked  
10 in the evenings seeing patients in the  
11 evening while I still had my day job as a  
12 researcher. And then at some point, a year  
13 and a half later, I actually became the  
14 Medical Director with a paycheck.

15 Q The paycheck you were receiving, was it  
16 considerably less than what you would get  
17 if you were in a so-called private  
18 practice?

19 A Yes, I think that's fair to say.

20 Q So your motivation to go into medicine was  
21 not one of enriching yourself?

22 A That's correct.

23 Q And you decided to work in the community in  
24 East Boston?

PAGE 87

87

1 the city, and it's geographically  
2 isolated.

3 So it's fewer people with  
4 health insurance, fewer people with high  
5 paying jobs, more people who are sort of  
6 struggling to get by.

7 Q Was there a time you provided medical  
8 services for people in the East Boston  
9 community for free?

10 A Actually, for the first three years there  
11 was a federal law that prohibited billing  
12 patients. We actually got our funding  
13 before we were federally qualified. We got  
14 funding through Title 5, which literally  
15 prohibited any kind of patient billing.

16 And then I think it was in  
17 1973, in the early Nixon administration, we  
18 were asked to become self-sufficient based  
19 on billing. So there was a sudden change  
20 in the mechanism. And that's been true  
21 through the years. The basis of funding  
22 has evolved and changed continuously.

23 Q You personally, Doctor, did you volunteer  
24 your time to work for free?

PAGE 86

86

1 A Yes.

2 Q Is there a particular reason you chose East  
3 Boston as a community you wanted to help  
4 people in?

5 A It certainly has always been an  
6 under-served community. It's basically one  
7 of the poorer communities. It has  
8 additional problems of geographic  
9 separation from the rest of the city. It  
10 has always been an immigrant community.

11 When I went there, it was an  
12 Italian community, over 60 percent, most  
13 did not speak English and viewed hospitals  
14 as terrifying places that you go to die.  
15 So they often did not get healthcare. So  
16 by actually coming into the community with  
17 translators for staff, people did get help  
18 there.

19 Q And East Boston is a lower income  
20 neighborhood or population?

21 A Yes, it's always been an immigrant  
22 community. It's always been on the lower  
23 economic scale. As far as the educational  
24 level, it's often been about the lowest in

PAGE 88

88

1 A In the first year, yes.

2 Q You were not paid for the patients you were  
3 serving?

4 A No, no. I mean, but that was the  
5 sixties. . .

6 The thing we did in terms of  
7 getting equipment from the City Hospital or  
8 actually putting lab results into their  
9 lab, doing all sorts of things which today  
10 would not be allowed -- absolutely a  
11 violation of all sorts of regulations  
12 but. . .

13 Q If somebody comes to your clinic today and  
14 they don't have the money to pay, do you  
15 see then?

16 A Absolutely. It's basically the mission,  
17 the statement of the health clinic is to  
18 attain easily accessible high quality  
19 healthcare whether people have the ability  
20 to pay or language obstacles.

21 MR. ALBERTO: I just wanted to  
22 bring out on the record what an outstanding  
23 deponent we have here.

24 MR. URSO: I have no questions.